

## **COMMITTEE ON BILLS ON SECOND READING**

**October 18, 2001**

Chairman Wihby called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Sysyn, Pinard, Cashin, Thibault

Messrs: R. MacKenzie, F. Rusczyk, T. Lolicata, J. Taylor, K. Dillon

Chairman Wihby stated we want to welcome our newest member, Alderman Thibault.

Chairman Wihby addressed Item 3 of the agenda:

Petition submitted by Attorney Lazos requesting changes to the zoning ordinance.

a) Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Multi-family) zoning district to include Lot 17 and the remaining portion of Lot 8 on either side of Countryside Boulevard west of Hackett Hill Road, in an area currently zoned R-S (Single-family).”

Mr. MacKenzie stated if you look at the final recommendation that we had submitted, the staff recommendation, on the fourth page there is a recommendation with four points. If I could I would like to go through each of those because on two of them I have a clarification after discussions with various parties. In essence, we are supporting the rezoning of the requested Lot 17 and Lot 8 from R-S to R-SM. The intent in Lot 17 is to build single-family homes but they need a higher density to make them work. Single-family homes are allowed in the proposed R-SM district. One of the concerns that the Board had at the hearing was that if Lot 17 was multi-family that they could perhaps build a couple of hundred units on the site. That is not the intent of the prospective developer and the applicant and the developer are willing to place a voluntary restriction on the property limiting Lot 17 to single-family homes. I would note that in the recommendation it doesn't mention Lot 17, but that is the one that was of most concern and I would add to this recommendation that it relates only to Lot 17. So

number one I believe there is some consensus on. That was an issue raised by the Board and I believe the applicant is willing to go along with that. Number two, there have been concerns by several of the environmental groups, including the State Department of Environmental Services and the Environmental Protection Agency. They are trying to develop a preserve. This program that we have been working on does help the City by significantly reducing costs for the consolidated sewer overflow system that we have been working on. One of the requirements was that the City negotiate in good faith for an area outside this rezoning, the balance of Lot 15 could also ideally, the environmental groups wanted to purchase Lot 17. We have been fairly consistent with them for the last three years that we recognize that we may be able to purchase the balance of Lot 15 but we will probably not be able to purchase Lot 17. Their primary concern was an area very close to unique wetlands. There is a unique wetland that includes three unusual habitats and they were hoping that this request could be pulled back, the request to rezone. We have worked with both the owners of the property and the applicants and we believe we have developed a plan that can mitigate the impacts on the wetlands. You will see the map on the next page. There is an area of just under six acres that I would be recommending that it remain in the existing R-S zoning district. That reduces their request for roughly 18 acres down to something under 13 acres.

Chairman Wihby asked where is R-S.

Mr. MacKenzie answered anything below that is R-S and everything above that area is R-SM or multi-family. We believe that is a fair way to protect the wetland. You can see the large wetland area that is light colored on the map. It is white. Those are the primary concern of the environmental groups. Again, the environmental groups and the Federal and State environmental agencies while they are perhaps pleased about pulling it back, they still have some concerns about development in this area and I was working with the EPA as late as this afternoon and I am hopeful that we will be able to work out those issues with the EPA and the other environmental groups.

Chairman Wihby asked if we go along with number two.

Mr. MacKenzie answered yes. Item 3, we are recommending since Lot 17 is within the watershed of some of these unique natural habitats, that best management practices be used to prevent any significant erosion or other types of impact on the wetland areas. I had made several suggestions on that. I would like to make two clarifications. One suggestion was the diversion of certain storm water from this particular lot outside and north of Countryside Boulevard, which is not in the critical watershed. That may not be possible. I would perhaps leave it in the recommendation but recognize that it just may not be possible from an engineering standpoint. In terms of the buffer, the applicant has indicated that if

they do build near any of the critical wetlands and that is the larger one, that they would retain a larger than normal natural buffer. Normally they are required to have a 25' natural buffer. They are willing to double that to 50'. I did want to note those two clarifications on Item 3. The fourth recommendation was primarily for planning purposes that they identify a phasing plan that we could then use when we work with the School Department in terms of building capacity at the schools to make sure that we are able to match the capacity of the schools involved to the construction. They discussed with us some options for phasing the program and we would continue to work with them on that. That clarifies all of the recommendations and specific conditions that I would be recommending. Two other points are that we did review the traffic impact study and the school impact study. The summaries are in the package here if you want to go into detail. In general, there would be close to 4,000 trips per day generated by the total project. In general, the analysis indicates that the intersection at Hackett Hill and Front Street could absorb that traffic impact except in the far out years, which is the Year 2012 because they do a ten-year out analysis of the projections. They did recommend some options on how that could be fixed, even in the year 2012. The second point I wanted to raise was that they did do an economic impact study of the project, which included an analysis of how many kids would be likely generated in this project and the extent to which those could be accommodated within the existing schools. They also analyzed what the tax impact would be. In general, their analysis found that it would have a positive tax impact for the City. In other words, each year after it was built there would be more taxes generated than there would be consumed by the school children. In a final note of their analysis, they would have to be paying in essence to public facilities or the City, roughly \$2.3 million in various impact fees for water supply improvements to sewage systems and school impact fees. The school impact fees alone, for example, would be just under \$500,000 and that could be used to add capacity at either West High School or Northwest.

Chairman Wihby asked could you go over those numbers again. Where is that on the handout?

Mr. MacKenzie answered there is an economic analysis and there is a so-called Page 3 and on the back of the page there is a section called "property tax impacts" with a chart.

Chairman Wihby asked so this is what they would have to pay, the \$2.3 million total.

Mr. MacKenzie answered on the bottom it shows that their one-time assessments would be \$2.378 million. Above that it shows what the total assessed value of the project would be. As shown the total assessed value would be \$44 million or slightly over that. The model that this consultant uses, which was developed for

the Town of Bedford and the Town of Hooksett, would show that they would raise on an annual basis \$1.2 million in property taxes and that that would offset the costs associated with both schools and the municipal expenses related to the project. We have not verified these particular numbers but to the extent that I am familiar with how it was developed, I have not seen any flaws in the analysis.

Chairman Wihby asked do impact fees go to the School District.

Mr. MacKenzie answered they go into a fund that the Board of Mayor and Aldermen does have to release by action. That is all I have unless you want to go into any more detail on the economic study or the traffic study.

Chairman Wihby asked does anybody want to say anything.

Mr. Henry Stebbins stated Nick has worked hard with Bob and Peter and the hospitals have worked hard with Bob to try to come up with resolutions to those issues that were raised at the public hearing. The one thing that we have a concern about and I think Bob has shared our concern is recommendation number three. One of the recommendations that Bob had put in, which he now mentions may be impossible, is taking...there is a ridge that goes along the roadway. If you look at the plan, the blue is the existing zoning line, the red is, under the agreement that we have reached with Bob, where we would recommend the rezoning occur. As you can see, there is a big portion of it adjacent to this wetland that is not to be rezoned anymore. What Bob has requested in his initial recommendation, which he acknowledges that now may be difficult is that...this is the ridgeline. This is the top of the ridge. Water on this side of the ridge flows this way and water on this side of the ridge flows this way. He is recommending that some of the pooling water be pumped back up here. First of all, we think environmentally that is a really bad idea because what makes these wetlands is the drain off from these lands. If you start pumping the water somewhere else, you may have an adverse affect on the "unique wetland." The second thing is the cost is very large for the benefit if there is any benefit. What we would propose to do is using best practices to make sure that the water was settled and basically had sediment going out of it before it went into the wetlands so it would be clean going into the wetlands. We think that part of the recommendation really should come out.

Chairman Wihby asked are you talking about Item 3.

Mr. Stebbins answered not all of Item 3, just that portion.

Chairman Wihby asked didn't I hear you say that you wanted to leave it in, Bob, but that we couldn't do it.

Mr. Peter DiMato stated I agree with what Mr. MacKenzie said. The theory being that there might be some cases where gravity wise we can't get it up to a certain spot so what he is saying is we need to use our best practices because on the area that we didn't rezone, that is a sensitive area. We figured out today that there are only going to be five lots there so there are a couple of things to note. Even the 50' buffer...you actually have a 100' setback to your building so it is even better than that. You have 100' from the wetland plus 50' that you don't touch. In some cases you might not be able to get the water up but maybe one of those lots let's say the water might drain such that you could drain it to get it to the other side and that is something that we want to do. He is saying that it might not be able to be done because until those five lots are there...that is when you are really going to know exactly that with Lot 4 and 5 you may be able to go that way and Lot 1, 2, and 3 you don't. That is what he means by that in a nutshell and I am saying absolutely I have no problem with that.

Chairman Wihby stated just so we have it straight, Bob, you are recommending this with these four recommendations and Mr. Stebbins you have problems with the way it is written.

Mr. Stebbins replied I just think that based on what we have talked about tonight and Bob's acknowledgement that it may be impossible to do, I think the phrase "best management practices" will cover it. We can certainly work with the Planning Department in the planning process.

Chairman Wihby asked so you have no problem with passing this recommendation.

Mr. Stebbins answered I would like that portion of it talking about pumping the water back up over the hill taken out.

Chairman Wihby stated that is what Bob is saying he doesn't want to do.

Mr. MacKenzie stated I don't have a problem leaving it in as long as it is identified as being optional. I think the developer is very willing to do it in certain locations if he can but just not make it mandatory.

Chairman Wihby asked how are we going to do that.

Mr. Dan Callaghan from Devine, Millimet & Branch stated with me tonight is Steve Cayman who is the Vice-Chairman of Hackett Hill Real Estate Development Company, LLC that is the owner of the property. Just so the record is clear, Hackett Hill Real Estate Development Company, LLC is made up of two entities, Alliance Resources, which is Catholic Medical Center and Elliot Hospital. This came out of the disaffiliation. Just so the record is clear, as the property

owner we have not sold the property yet. The first two conditions would apply to the property irrespective of whether it is sold or this developer buys it. We understand conditions three and four are developer specific. What I want to make clear is that we do agree and I raise that if this rezoning is granted that Lot 17 will have the restriction on it that we will put on it for the benefit of the City that single-family houses only would be on that property and that the zoning line would be as established here. As I said, the third and fourth conditions I think are developer specific so if this development was not consummated and we negotiated with a new developer, obviously I would come in with something else. They would be subject to the restriction that the red zoning line is where the zoning line is and that on the entire Lot 17 only single-family homes can be built.

Alderman Thibault asked on Lot 17 it doesn't include any unique wetland areas. The eastern portion of the lot does abut and directly drain into a wetland area. Is that the one you are talking about now that you are saying you would like to hold some control on? What is eventually going to happen with that?

Mr. Callaghan answered here is the wetland area. It is down in this area here outside of the lot. What the environmentalists and Bob have been working on is being very sensitive in this area that we are going to leave as zoned R-S under this agreement and only put five lots in there and make sure that we have adequate setbacks and are careful about the drainage. What you don't want is to build a parking lot where everything just flows right down into that wetland. We want to make sure that it settles correctly and that it flows and to the extent that it can flow this way that is fine and we will work with them on that. This is the area here that they are seeking to protect.

Alderman Thibault stated I want to make sure that I understood what Bob said about those restrictions. I am very concerned about that. I think that answers my question.

Alderman Pinard moved that the ordinance ought to pass with the recommendations made by the Planning Department.

Mr. MacKenzie stated for now I don't have a problem with that one phrase being stricken because I think we can still work on it..."the diversion of certain storm water to the north of Countryside Boulevard."

Chairman Wihby asked do you want to take that out.

Mr. MacKenzie answered yes I think we can take it out for now because I know that the applicant is willing to do it if the opportunity exists and we can work on that during the Planning Board stage.

Alderman Sysyn duly seconded the motion.

Deputy Clerk Johnson stated I just want to make sure that we have it clear for the record. So in essence Item 3 will end with the word “watershed” and there would be a comma there and then we would pick up at “additional buffer to any on site wetlands and selective tree cutting.”

Mr. MacKenzie replied yes.

Chairman Wihby called for a vote on the motion that the ordinance ought to pass subject to the recommendations of the Planning Director as changed. There being none opposed, the motion carried.

- b) Technical change to Article 6.07 Table of Dimensional Regulations height reference from “35” to “45”.

Deputy Clerk Johnson stated the technical language actually is appearing on here and the Planning Department has not submitted an original ordinance based on that but that is the only change. They are changing the height from 35 to 45.

Chairman Wihby asked all we are doing is letting them have a pitched roof or whatever.

On motion of Alderman Pinard, duly seconded by Alderman Thibault, it was voted that the ordinance ought to pass.

Chairman Wihby stated we are not going to address Item 4. They are working with the neighbors and we are waiting to hear back from them.

Petition from residents of Ward 10 requesting that the Board of Mayor and Aldermen reverse the “City Wide Zoning Ordinance” of a certain piece of property located at Biron Street, from R-SM back to its original zoning of RB-1.

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to table this item.

Chairman Wihby stated Item 5 is the same. They are waiting for a report to be given to Alderman Pariseau and he has asked us to table this.

Petition to change the zoning ordinance submitted by Attorney Lazos

reference: Lot Line Relocation/Donovan Spring Property off South Willow Street; in the vicinity of Faltin Avenue.

On motion of Alderman Sysyn, duly seconded by Alderman Cashin, it was voted to table this item.

Chairman Wihby addressed Item 6 of the agenda:

Ordinance:

“Amending Title XI: Business Regulations, of the Code of Ordinances of the City of Manchester, by increasing license fees for business activities, reclassifying entertainment places of assembly, deleting Chapter 115: Solicitations, Sales, Peddlers, and Fairs and replacing with a new Chapter 115: Solicitations, Sales, Peddlers, and Fairs.”

Alderman Pinard moved that the Ordinance ought to pass. Alderman Sysyn duly seconded the motion.

Chairman Wihby asked did this go to another Committee first.

Deputy Clerk Normand answered yes it went to the Committee on Administration. It actually came originally from the Special Committee on the Civic Center and then to Administration.

Chairman Wihby asked so this has been looked at before and nothing has changed.

Deputy Clerk Normand answered well they increased the fees. The fees were not discussed by the Civic Center Committee.

Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.



Chairman Wihby addressed Item 7 of the agenda:

Ordinance:

“Amending Section 97.34 (B) Encumbrances Prohibited, of the Code of Ordinances of the City of Manchester, by increasing the fee for sidewalk cafes.”

Alderman Pinard moved that the Ordinance ought to pass. Alderman Sysyn duly seconded the motion.

Chairman Wihby asked did this go someplace else besides here.

Deputy Clerk Normand answered the same thing. This was part of that whole package.

Chairman Wihby called for a vote. There being none opposed, the motion carried.

Chairman Wihby addressed Item 8 of the agenda:

Ordinance:

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 33.046 (C) Entrance Pay and 33.080 Military Service, in their entirety, and inserting new Sections 33.046 (C) and 33.080 to conform with the Federal Uniform Services Employment and Reemployment Rights Act of 1994.”

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted that the Ordinance ought to pass.

Chairman Wihby addressed Item 9 of the agenda:

Ordinance:

“Amending Sections 33.024, 33.025 and 33.026 (Security Officer) of the City of Manchester.”

Chairman Wihby asked what is this about.

Deputy Clerk Johnson answered that is for the Security Officers at City Hall.

Chairman Wihby asked did they get hired.

Deputy Clerk Johnson answered yes.

Chairman Wihby asked did this go to the Human Resources Committee first.

Deputy Clerk Johnson answered yes.

Alderman Cashin moved that the Ordinance ought to pass. Alderman Pinard duly seconded the motion.

Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.

Chairman Wihby addressed Item 10 of the agenda:

Ordinance:

“Amending Section 38.02 Departments Authorized to Issue Citations and Section 38.06 Citation Penalties of the Code of Ordinances of the City of Manchester.”

Chairman Wihby asked what is this about.

Deputy Clerk Johnson answered this is from the Health Department and I believe that Fred Rusczek is here.

Mr. Rusczek stated this is a result of work that was before the Committee on Administration and what it does is it ups the ticket amounts primarily. It increases the citation penalties as shown on the chart. We did learn today from the City Solicitor's Office that there is a concern even though it had been there in the past of the Highway Department's ability to write tickets.

Chairman Wihby asked tickets for what.

Mr. Rusczek replied when somebody doesn't clean up litter on a property after they are ordered to we write a ticket. This deals with other violations as well.

Chairman Wihby asked how come some of the penalties went down.

Mr. Rusczek answered I didn't know that any went down. I don't know. That is not a Health one.

Chairman Wihby asked do you know what that one is.

Mr. Rusczek answered I don't. 130.54? I wouldn't know what those violations are. This really involves the departments of Fire, Building, Health and Highway. Those would not be ones that were involved. They might be fire ones.

Chairman Wihby asked do you have a book.

Deputy Solicitor Arnold answered I don't have a Code of Ordinances book with me.

Deputy Clerk Johnson stated if you want to wait we can go and get one. There is another one, 111.51 that is poker machines and when the amounts went up that fine was supposed to be \$1,500.

Deputy Clerk Normand stated the fines for licensing poker machine went from \$1,000 to \$1,500 and that was supposed to follow the \$500 to \$1,000.

Chairman Wihby asked we still have poker machines.

Deputy Clerk Normand answered yes we have 128.

Chairman Wihby asked how many did we have.

Deputy Clerk Normand answered 340.

Chairman Wihby stated I thought it went down to zero. We took out all of the revenue last year. Are you going to have extra revenue?

Deputy Clerk Normand replied no. We counted on 130 poker machines.

Chairman Wihby asked what do you want to change.

Deputy Clerk Johnson answered that 111.51, instead of it reading \$500 and \$500 we want it to read \$1,000 and \$1,000. I am not sure what those other sections are.

Chairman Wihby asked we can't tell by a number what department they are.

Deputy Clerk Johnson answered we will get a Code Book.

Chairman Wihby asked can you tell by a code section what department it is.

Deputy Solicitor Arnold answered if I had it memorized I could, but I don't.

Chairman Wihby asked but 130's are all one department, etc.

Deputy Solicitor Arnold answered not absolutely but generally speaking they do.

On motion of Alderman Cashin, duly seconded by Alderman Thibault, it was voted to put this item on hold until Mr. Normand returned with a code book.

Proposed amendment to Traffic Ordinance for parking permits of  
\$36/month at the Rubenstein Lot.

Deputy Clerk Johnson stated that was already done under suspension of the rules.

Mr. Lolicata stated I just want to make sure that this goes through because we will be using it in the future for the Millyard.

Chairman Wihby asked can you tell me what is going on with...we passed some things in the Civic Center Committee and it went to Traffic and then something is coming up and Intown is upset. Where does all of that fit into anything we have done?

Mr. Lolicata answered it is going to fit in overall.

Chairman Wihby stated the Mayor had a meeting with everybody and everybody was happy and now she is not. Is that what is happening or we didn't do something?

Mr. Lolicata replied she is bringing up different concerns and I think she has a complaint mostly with the prepay. I didn't see the whole letter. She has a letter and the Chamber of Commerce submitted a letter. One more time, here we go again.

Chairman Wihby stated we finished the whole thing and the Mayor had meetings with the businesses and they had all agreed to what we had done. Is that true?

Mr. Lolicata replied that was my understanding.

Chairman Wihby asked is that the way it left the Civic Center Committee and went to Traffic. Is that how it ended or did they change it there?

Mr. Lolicata answered you have an ordinance right now in effect.

Chairman Wihby asked but did you change it and that is why she is upset or is she upset now over something new.

Mr. Lolicata answered when this issue came up at the Traffic Committee meeting she wasn't there and that was a part of it. She had some concerns.

Chairman Wihby asked so you are having a meeting to take up that letter and change something. Is that going to have to come to this Committee also?

Alderman Sysyn stated we voted for it to be pay upon exit but I thought we had voted for prepay.

Deputy Clerk Johnson answered there actually was a vote for prepay. I did the research on it today. There was an action...after the Board approved the \$5 upon exit there was an action to allow prepay but the intent, although it was not clear, the intent as near as I can tell was for non-civic center event nights. It was not clear.

Chairman Wihby asked is that what she wants.

Deputy Clerk Johnson answered she wants prepay for all nights and they are also looking for a validation program to be established.

Chairman Wihby asked are you familiar with what she wants and is it different than what we passed. Is it going to affect the opening of the civic center?

Alderman Sysyn answered no.

Mr. Taylor stated what happened was there were some downtown merchants who apparently didn't attend some of the meetings early on so...the original changes put the two hour meters in and now some of them are upset because two hours isn't enough. We started out with ten hours and went back to two because the merchant's complained and now two isn't enough so they want to change it again. They also want to allow someone to do free parking on the side streets after 7 PM or 8 PM.

Chairman Wihby asked free parking.

Mr. Taylor answered yes that is the proposal that got tabled in Traffic the last time.

Mr. Lolicata stated right now the ordinance is 8 AM until 10 PM for meters and they are trying to get it to 8 AM until 8 PM. That might be a change coming up to try to satisfy the merchants.

Chairman Wihby asked so all of the stuff that we are doing in the Civic Center Committee that is then going to Traffic, is it all coming to this Committee then.

Deputy Clerk Johnson answered not all of it. It depends on whether it is an ordinance change or a policy change or a regulation. If it is a regulation it wouldn't come here at all. If it is an ordinance change then it would come here.

Chairman Wihby asked is she looking for ordinance changes.

Deputy Clerk Johnson answered most of what she is looking for are issues that the Board needs to approve.

Chairman Wihby asked so are we all set with the civic center as far as what we are doing down there when it opens.

Mr. Lolicata answered if nothing changes we can go and if there are any changes we can adapt to it. I am not worried about opening day.

Mr. Taylor stated I think we should try it and see if it works and then change it if we need to.

Alderman Thibault asked, Tom, how about the labor cost to you for changing these meters, etc.

Mr. Lolicata answered right now they are all set but if something like this goes through Traffic on Monday and she wants a certain meter from one zone to another zone physically for me it is just more of a burden.

Alderman Thibault asked what is your labor cost to do this.

Mr. Lolicata answered it all depends on what is passed. The signage for the civic center is all complete. The ordinance signs are being set up. The residential area, we are going to start on one street and let that go before anything happens with the Police Department because those people are going to have residential parking 365 days a year and I expect to hear some screams. I expect that. We are going to try one street for now. You can always change things. In a month we are going to know exactly how to handle this stuff.

Chairman Wihby stated that is why I thought we had voted on it and we were going to watch it and not change things before the civic center opened. So it was people who were upset before but never let their voice be heard and she is trying to tell us what they want? If you come in with those changes are the people who are happy now not going to be happy?

Mr. Taylor replied I think it is fair to say that whatever is done here, not everyone is going to be happy. There is no way we are going to be able to find something

that makes everybody entirely happy. I think what we have to do is get a few events and experience under our belts and see where people park and how the system works and then change it. If we keep changing it now, we still don't know how it is going to work and how do we know we are making the right change. I think we should try it and see what happens and if we need to change it we will change it. Everybody has agreed to that.

Mr. Lolicata stated one thing that is important is we just found out ourselves is that we would like to change the fee from \$12 to \$10 at the Center of NH based on volume, on large parking and on providing change to cars. We are going to recommend \$10 instead of \$12 at this meeting.

Chairman Wihby asked is that something we would take up in this Committee.

Mr. Lolicata answered no.

Alderman Pinard stated regarding changing the time on the meters, now if the events at the civic center start at 7 PM, what businesses downtown besides a few restaurants are going to be open.

Mr. Rusczek stated the Health Department is open four nights a week until about 7:30 PM. We are going to wait and see what happens after the first few events and then start looking to see if we can develop a relationship with the Community Health Center or someplace else and move clinics away from there. It is something that we are watching.

Alderman Pinard stated if it is just a few restaurants that are going to be open and we have the civic center open from 7 PM until 10:30 PM, I think we should try out the 8 AM until 10 PM meter time.

Mr. Taylor stated if we go to all the trouble and find that the retailers who have been making an issue of this don't even bother to stay open I guess I would wonder then why we are being concerned. If it isn't a problem why do we need to be concerned about it?

Discussion resumed relative to Ordinance:

“Amending Section 38.02 Departments Authorized to Issue Citations and Section 38.06 Citation Penalties of the Code of Ordinances of the City of Manchester.”

Deputy Clerk Normand got a copy of the City's Code book and the Committee went back to Item 10. Deputy Clerk Normand asked if the question was about 130.51?

Chairman Wihby replied 130.52 and 130.54.

Deputy Clerk Normand responded 50-57 is all dealing with littering. 130.52 is litter on vacant property.

Chairman Wihby asked why are we reducing that or who is reducing that. Highway?

Deputy Clerk Johnson asked who uses the litter ordinance.

Mr. Rusczek answered Health, some of that is written for police when they witness it, Building...the litter ordinance has different sections in it and we all have a piece of it.

Deputy Clerk Johnson stated litter on private property is general use.

Chairman Wihby asked why is it being reduced from \$200 to \$100.

Mr. Rusczek answered I don't know. Frankly, I didn't know if was ever \$200.

Deputy Clerk Normand stated the ordinance is referring to this penalty section so it would be \$200 and it is being reduced to \$100.

Alderman Thibault stated Fred you are mostly concerned about residential properties and absent landlords, etc., right.

Mr. Rusczek replied right.

Alderman Thibault stated I don't know why it should go down in price. I think it should go up.

Mr. Rusczek replied I don't disagree with you. Frankly, I didn't know...

Chairman Wihby interjected who would have put this in it.

Deputy Clerk Normand stated 130.52 currently is a \$500 fine in the code book.

Chairman Wihby asked and we are going to \$100. Where did this ordinance come from?



Deputy Clerk Johnson answered it was initiated out of the Health Department.

Mr. Rusczek stated it was a team approach. Frankly, I don't think we have ever written any tickets for \$200 for a first offense. I know that our ticket books don't say that.

Chairman Wihby replied the book says \$500.

Mr. Rusczek stated that is frankly news to me. We have been using our ticket books that say \$50. I don't recall when that was ever changed and I hate to come before you and be ignorant about what is in the new code book.

Chairman Wihby asked explain to me how you do this. You enforce certain regulations that we have using tickets?

Mr. Rusczek answered yes. We have a ticket book with amounts on it and that is what we would use. If we get a complaint from anybody...a neighbor, an Alderman or whatever that a piece of property is littered, we will go out and investigate and send out a letter saying this needs to be cleaned up by such and such a date or if it is a person who knows the laws it will say you are hereby ordered to clean it within 48 hours or seven days. When we go back out if it is not cleaned up we write out a ticket. We have been using ticket books and I guess my familiarity with the amounts has been through our ticket books. I don't ever remember them going up.

Chairman Wihby stated you don't remember it going up and now you are recommending it to go down so why is that.

Mr. Rusczek replied actually for us when we had looked at it we were looking at an increase up to \$100. I had just pulled this out now. If \$200 is what is on the books then we need to reprint out...

Deputy Clerk Normand interjected it is \$500 in the new edition of the code book that has come out. The old code book that this would have been written off of had the \$200.

Chairman Wihby asked how did the new \$500 come out.

Deputy Clerk Normand answered I am not sure.

Deputy Clerk Johnson stated that was part of when we did the recodification. There were a lot of errors.

Chairman Wihby asked so the Aldermen would have voted at one time to go from \$200 to \$500.

Deputy Clerk Johnson answered this is also set-up as just...there wasn't a second offense. It was the first offense it was \$500 and on the second offense it was a public hearing. Now that would have come through the garbage and trash section.

Chairman Wihby asked what about all of these other numbers. Are they right? What about 50.04?

Deputy Clerk Johnson answered those are all fine.

Alderman Cashin stated it says amending the code of ordinances by deleting language stricken and inserting new language in bold. It is only the bold that they changed.

Deputy Clerk Johnson replied the bold has been added in.

Alderman Cashin stated so 50.04 and 50.05 have been added.

Chairman Wihby replied I thought you said 50.04 was there.

Deputy Clerk Normand responded no it is not.

Chairman Wihby stated so you are going from \$200 to \$100.

Deputy Clerk Johnson replied you are going from \$200 to \$100 according to our books now. For a first offense it is \$100 and for a second offense it is \$200. Then they are saying \$300 for a third offense and no court appearance.

Chairman Wihby asked why is that. We were just talking about littering the other day.

Alderman Thibault stated here is the point. I have called the Building Department several times because I have a lot of three and six apartment buildings in my area and what happens is there are absentee landlords and you end up with three or four weeks of trash there before it gets picked because I won't pick it up the way it is thrown around the whole driveway. Part of this probably comes from the fact that I have called often.

Deputy Clerk Johnson stated we would suggest that those two be removed from this ordinance and tabled and we could do some research as to where that information came from.

Mr. Rusczek stated I can assure you there was nobody on the team of folks that was made up of folks from the Police Department, Fire Department, Building and Highway that want to reduce any penalties. I would ask the Committee to allow us to go back and see what happened. In conferring with the City Solicitor's Office there was some question as to when that was increased as well. I would like to go back and see if there were some errors that occurred at some point. The intent that we have is to jack up the fines but it might make the most sense to give us one more meeting just to sort it out.

Alderman Thibault stated what the Building Department told me is that they would just as soon take the \$50 fine and forget it. They don't want to be bothered with it.

Deputy Clerk Johnson replied it is not a \$50 fine. It is either a \$200 or a \$500.

Alderman Thibault responded well they have been charging them \$50. Fred, when you write a citation, you write a \$50 fine right.

Mr. Rusczek replied actually what we have been writing you will see on the second page under B, first offense was \$25 and second offense \$50. We become property agents if you will. \$25 is a cheap way of finding out that you have a problem.

Chairman Wihby asked if it says \$500 or \$200, why are you writing tickets for \$25.

Mr. Rusczek answered what we have before us now are ticket books that were written back to a general penalty and what you see in B is the general penalty and that is what shows up in 38.06.

Chairman Wihby stated let's got to 130.52. You said your book says \$200?

Mr. Rusczek replied the books we are using say \$25, \$50 and \$100 and if it is not paid it becomes \$50, \$100 and \$200.

Deputy Clerk Johnson responded I don't know what books you are using.

Mr. Rusczek replied that is our ticket book. That is what we write the tickets on.

Deputy Clerk Johnson stated tickets are written by the City. In 1999 that ordinance section was amended. There was an ordinance passed September 7, 1999 amending it.

Chairman Wihby asked why did this come like this with these changes if nobody knew that it was \$500 or even \$200 because they were paying \$25. How did someone put this together for us to vote on?

Deputy Clerk Johnson answered this was put together based on the fines from the this book right here.

Chairman Wihby asked the old ordinance book.

Deputy Clerk Johnson answered well the new one just came out in the last month so they were using something from a couple of months ago.

Chairman Wihby asked but we are using tickets that don't match the ordinance.

Deputy Clerk Johnson answered right.

Alderman Cashin asked how do we know that these other things match up.

Deputy Clerk Johnson replied we just checked them.

Chairman Wihby asked so everything is the same except for those crossed off ones, those two.

Alderman Cashin stated why don't we just table this thing.

Chairman Wihby asked what are the new ones. You are telling us a number but what does it refer to? So someone decided that we needed a new citation 50.04 and that is something new that we are going to fine somebody for. Is that what we are saying?

Deputy Clerk Normand answered they would have been fined \$25 and fallen under this fee. 50.04 talks about placement of garbage, rubbish or yard waste for collection. Item A says "the Highway Department will not collect garbage,

rubbish and/or yard waste unless it has been properly prepared and placed in the right-of-way at the curb or back street as required by departmental regulations.” Item B says, “no garbage, rubbish or yard waste shall be placed for collection prior to 4 PM of the day preceding the collection day that has been designated by the department for the area of the City and these containers shall be removed from the right-of-way and stored on the property to which they belong no later than 6 PM on the day of collection. Garbage, rubbish or yard waste that has not been collected because it has not been properly prepared or placed shall also be removed from the right-of-way and properly stored or otherwise disposed of no later than 6 PM on the day that it was to have been collected.”

Chairman Wihby asked so basically you are saying before if someone took their garbage out too early it would have been \$25 but now because it is going to be in the code section it is going to be \$100 for the first offense.

Deputy Clerk Normand answered right.

Chairman Wihby stated so basically all of these other ones are the same. They might have been offenses before that we charged \$25 for but now we are listing them and we are going to increase them and anything else that we want to write-up later on is going to come under \$50.

Deputy Clerk Normand replied that is correct.

Chairman Wihby asked but we don't know why things went down to \$200 or \$100. So if we table this for another month is it going to hurt anything or do we just table the ones that decreased?

Deputy Clerk Johnson stated to table this might be the easiest thing to do. Those sections are still a part of the ordinance and I presume that Highway had something to do with this as part of the team.

Mr. Rusczek replied yes Highway was part of it.

Deputy Clerk Johnson stated so those were recommendations I am sure that came out of Highway, 50.04 and 50.05. The other ones, I am not sure why.

Alderman Cashin stated I think Mary brought this up at one of the meetings.

Alderman Sysyn replied right because they were paying \$25. We call them and they go down and give them a ticket for \$25. What do they care if it is costing \$2,000 for us to clean up the mess?

Deputy Clerk Johnson stated so the only two that are really problems as far as I can see are the two sections related to 130.

Chairman Wihby replied right so 130.52 and 130.54 are what we see as a problem because they are going down. Could we approve everything else and table those two items?

Deputy Solicitor Arnold stated in section 38.02 it is proposed to remove the Housing Code and add Highway. Pursuant to State statute, I don't think we can grant Highway the authority to issue citation. Now keep in mind that a citation is different from a court summons. Under State statute, specifically 47:17, citations can be issued for violation of health, fire, planning board, building, licensing, zoning and housing codes.

Alderman Cashin stated so let me ask you a question about garbage. The scavengers go out and find out that they can't pick up the garbage and now you are telling me that the Highway Department can't give them a citation?

Deputy Solicitor Arnold replied they can't issue a citation for it. They could issue a summons.

Alderman Cashin asked a summons to go to court. That is not what we want.

Deputy Solicitor Arnold answered that is not what is being talked about here.

Alderman Cashin so if the Highway can't do it do they have to call the police station and have them do it.

Alderman Thibault stated the housing code issues them.

Deputy Solicitor Arnold replied a housing code we can issue a citation for because they are part of the statute.

Alderman Cashin asked can the housing code issue a citation for garbage.

Deputy Solicitor Arnold answered if it is part of the housing code, which some garbage is. In the housing code there are provisions for litter around the property.

Alderman Cashin stated all we want...let's not make this any more difficult than it has to be, somehow we want to be able to have a scavenger or have anyone driving around the City of Manchester whether it is the Health Department, Fire Department, anyone if they see garbage out in front of a house prior to when it is supposed to be out there if they can give a citation. We want the City cleaned up

and that is the only way we are going to be able to do it. Now there are enough City employees driving around to accomplish this.

Deputy Solicitor Arnold replied you can issue a citation for a violation of the housing code. That is not a problem. If it is a trash offense that is not part of the housing code, you cannot enforce that by citation.

Alderman Cashin asked then how do we do it.

Deputy Solicitor Arnold answered you can issue a summons.

Alderman Cashin stated we don't want to go to court. We want to issue a citation. How do we do that?

Deputy Solicitor Arnold replied I think you need a change of the law.

Alderman Thibault asked but can't we have the Police Department of Health Department give a citation.

Deputy Solicitor Arnold answered if it is part of the Building Code or the Housing Code, yes.

Alderman Cashin asked why can't we just add garbage.

Deputy Solicitor Arnold answered I am not sure what you are talking about.

Deputy Clerk Johnson asked can they change the Housing Code section to include the trash section and then that takes care of it.

Deputy Solicitor Arnold answered yes.

Deputy Clerk Johnson replied then you might want to table the whole thing and we will bring it back.

Alderman Cashin asked so Housing Code will be responsible. Is that what you are saying?

Deputy Clerk Johnson answered what they are saying is you can't take those sections for instance that Highway is asking for and have them issue a citation. What you can do is change your Housing Code ordinance to include the sections on trash. Highway could be a designee of the Building Department for those particular sections as well.

Deputy Solicitor Arnold stated you can issue citations for violations of the Housing Code.

Deputy Clerk Johnson replied right. They would have to issue it as a violation of the Housing Code.

Alderman Cashin responded okay now we are getting to where I wanted to go. It can be done.

Deputy Solicitor Arnold stated yes. If you want to you can, I think, amend your Housing Code to include trash offenses beyond what is there now. Then it is a violation of the Housing Code for which you can issue a citation.

Chairman Wihby asked for which Highway can issue a designation.

Deputy Solicitor Arnold answered without researching it I think you are right.

Chairman Wihby asked so Highway could issue a citation based on a broken Housing Code.

Deputy Solicitor Arnold answered that an employee who is not an employee of the Housing Code could issue a citation.

Alderman Cashin asked could we table this.

Alderman Thibault stated right now as it is, if I go out in my ward and I find something that is a public health threat, you can give a citation right away can't you.

Mr. Rusczek replied we have to give notice. We have to tell them to...

Alderman Thibault interjected how long.

Mr. Rusczek answered if it is someone who is familiar with all of our laws and regulations and we have a history with them we will issue them an order to clean it up and it could be as soon as 24 hours if we think it is a community health hazard or it could go out as far as seven days if it is minor.

Alderman Thibault asked but you can issue a citation.

Mr. Rusczek answered yes we can.

Alderman Thibault stated so the Housing Code has authority and so does Health.



Mr. Rusczek replied so does Zoning and Planning and others.

Alderman Cashin stated now the Highway will be able to do it.

Mr. Rusczek replied I think Highway has been doing it.

On motion of Alderman Cashin, duly seconded by Alderman Thibault, it was voted to table this item.

Chairman Wihby asked does the Housing Code cover all residential homes or is it just the three tenement homes and stuff.

Deputy Solicitor Arnold answered right now Housing Code is, if I remember correctly, rented housing over three units or something.

Chairman Wihby asked so a residential house wouldn't be included in this.

Deputy Solicitor Arnold answered right it wouldn't be covered by the Housing Code.

Alderman Cashin stated maybe I am not making myself clear. I want every home in the City of Manchester to be under the same descriptions and the same laws. I don't care if it is a six-tenement house or a three-tenement house or a single-family dwelling. If they are leaving the garbage out and it is staying out there for a longer period than it should then I want them to get a citation. If they are moving out of the apartment and they are leaving the stuff there and expecting us to pick it up, then I want them to get a citation. I want the City cleaned up.

Mr. Rusczek stated somebody covers everybody. It is a hodge podge in terms of who.

Alderman Cashin replied that is where we fall through the cracks. You have a piece of it and Building has a piece of it...what I want to do is combine it all so that everybody has the same authority to give citations. Everybody.

Deputy Solicitor Arnold stated that is certainly something we can look at.

Chairman Wihby addressed Item 12 of the agenda:

Ordinance:

“Amending an Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester, by increasing penalties (fines) for parking violations.”

Deputy Clerk Johnson stated I just want to note that this was not part of the poll. This is actually...the Police Department had brought this forward to increase the fines.

Chairman Wihby asked if it wasn't a poll, then tell us about it.

Deputy Clerk Johnson answered this was brought forth by the Police Department. It basically had to do with the fact that they charging \$10 for parking but they only get \$5 for a ticket in the downtown area and they want to increase the fine. If you look at it, they are increasing expired meters. They are saying that the first ticket would be \$10 and after 7 days it would be \$20. Overtime parking is going from \$10 to \$15.

Chairman Wihby asked so overtime parking is going to \$15 and the second offense would be \$30.

Deputy Clerk Johnson answered yes.

Chairman Wihby asked so they are almost doubling that. How come no parking was \$45 before and now it is \$40?

Lt. Lussier stated I think the idea behind most of this was to make it more appealing so that people would park where they were supposed to be parking. With an expired meter, if you get a ticket for \$5 you might as well just park at the meter instead of parking in the garage. We are just trying to correct that.

On motion of Alderman Pinard, duly seconded by Alderman Thibault, it was voted that the Ordinance ought to pass.

Chairman Wihby addressed Item 13 of the agenda:

Proposed change to Section 151.41 (C) Parking Trailers Outside Parks of the Code of Ordinances of the City of Manchester by changing the period for trailers allowed on premises outside of trailer parks from a period not exceeding 60 days to a period not exceeding 30 days.

Alderman Thibault moved that the Ordinance ought to pass. Alderman Pinard duly seconded the motion.

Alderman Thibault stated I don't believe that anybody should be allowed to run a generator next to anyone's house.

Alderman Cashin stated I don't want to pass a law that says nobody can run a generator in their home. A lot of people have emergency generators.

Alderman Thibault replied I have no problem with that.

Alderman Pinard stated there is a camping trailer on Bridge Street Extension near Christy Lane. It was there last summer and it is back there again. I think it is wrong.

Alderman Thibault asked is it running.

Lt. Lussier stated nobody is allowed to park on a City street for more than 24 hours. We usually red tag it and make them move.

Alderman Pinard asked can you send somebody there because it is there day in and day out by Christy Lane.

Chairman Wihby asked no vehicle can park on a City street for more than 24 hours.

Lt. Lussier answered not under the anti-theft laws. If you park in front of your house and leave your car there for a week and your neighbors call we will go out and throw a red tag on it and tell you to move it and if you don't move it we have it towed.

Chairman Wihby stated I thought as long as they had a license plate they were okay.

Lt. Lussier replied no.

Alderman Pinard asked how about a tractor-trailer that has been parked over here on Hanover Street.

Alderman Thibault answered it is illegal to park a commercial vehicle on a street overnight.

Lt. Lussier stated a couple of years ago they banned everything from the street and then at one point they came back and ordered pleasure vehicles to be parked but commercial vehicles cannot be parked overnight.

Alderman Pinard asked Lt. Lussier to check out the tractor-trailer.

Chairman Wihby called for a vote. There being none opposed, the motion carried.

Chairman Wihby addressed Item 14 of the agenda:

Referral by BMA of potential changes including income limits to the property tax exemptions.

Deputy Clerk Johnson stated this is the piece that we didn't take out of Committee. What happened was we had polled the Board on the section that did get passed in order to have the elderly exemptions and the disabled exemptions were taken up by the Board as well. There was also a question as to whether or not you could change some of the other income limits and that part is what stayed in the Committee.

Chairman Wihby asked so what part is here for us to discuss.

Deputy Clerk Johnson answered "potential changes including in income limits to the property tax exemptions." There was discussion about changing some of the income limits and when the Board discussed it recently they were saying let's see how it goes and then we will come back. Some of it is by law that you can only change so much.

Chairman Wihby asked, Tom, do you remember this. There was something that we didn't have that we sent here. What was that?

Alderman Sysyn asked was it the age thing.

Chairman Wihby asked was it changing the age.

Deputy Clerk Johnson answered "possibility of providing an additional \$20,000 in exemptions for those age 76-80 to be investigated." The other issue was "\$120,000 exemption for those 80 and above along with no income or asset

limits". It is on the backside of the committee report that is attached. There were three things listed on the committee report itself.

Deputy Solicitor Arnold stated I was not aware that I was supposed to investigate that. I apologize.

Chairman Wihby asked what exactly are we looking to do...potential changes including income limits. So that was to change the income limits. Is that why we sent it here? To raise it up higher?

Deputy Clerk Johnson answered originally you were talking about for over 80 you were going to raise it to where there were no income limits and then I think you wanted to increase the other ones.

Chairman Wihby stated and what we were hearing from some of the Assessors was that you can't do that because there are State statutes or something. Do you know if we can or can't at this point, Tom?

Deputy Solicitor Arnold replied at this point I do not.

Chairman Wihby stated and yesterday we heard from Alderman Shea that he got called from somebody saying that they were disabled and now they have a bigger exemption because they are disabled and now they come under the senior exemption so they were told they have to come under the senior and they lose some of it.

Alderman Thibault stated any time over 65 they lose it because they fall under Social Security at 65. They lose the disability.

Deputy Solicitor Arnold stated the Statute defines disabled by being disabled pursuant to Title IV or...two titles in the Social Security code. If those two titles say that you lose your disability when you reach 65, then pursuant to those two titles at age 65 you are no longer disabled.

Chairman Wihby asked do you know if it says that.

Deputy Solicitor Arnold answered I have not looked at the Social Security law.

Chairman Wihby asked is it a State statute.

Deputy Solicitor Arnold answered no it is a federal law.

Chairman Wihby asked so there is nothing we can do today that we could bring up at the next meeting that would solve that problem where if you are getting a bigger

exemption because you are disabled and all of the sudden just because you move into a senior age you can't go under the larger one. There is nothing we can do today?

Deputy Solicitor Arnold answered no. If that is the problem that would take a change at the State level. Now I am presuming in that answer a couple of things. First of all that those two titles provide that at age 65 you lose your disability.

Chairman Wihby asked if it doesn't do that is it just an interpretation from the Assessors then.

Deputy Solicitor Arnold answered it may be. I think it would be more of an interpretation by the Assessors.

Chairman Wihby asked would you agree with that interpretation.

Deputy Solicitor Arnold answered I have to look at the federal law.

Alderman Thibault stated here is the other thing that I am getting calls on. People that are in fact disabled and become 65...and here is the other question they are concerned about. Where it goes from \$24,000 single/\$34,000 married. Why can't they go from \$24,000 to \$48,000 because at that point they can't work either? They can't do anything. They are saying that because we have only raised it \$10,000 because they are married, married costs more money than if you are single. It is a lot more than \$10,000 and that made some sense to me when they told me that. I think as you look at that and Tom I would like you to look at this too and see if there is an answer on that. Why couldn't we raise that limit for disabled people from \$24,000 to \$48,000 or in that area? Maybe \$40,000 or \$45,000. They seem to think that they are getting cheated both ways. They lose their disability status and then they are being penalized on the other end by if they were single \$24,000 and because they are married only \$34,000.

Chairman Wihby asked what did we do on the limits for disabled.

Deputy Clerk Johnson answered nothing.

Chairman Wihby stated so they had no income limit and all of the sudden they have both.

Deputy Clerk Johnson replied I think it was set at \$275,000 or something.

Chairman Wihby responded it seems to me that if you are still disabled you should be able to take the disability exemption. It doesn't matter how old you are.

Deputy Clerk Johnson stated it is defined under the law. There are two specific categories under the federal law.

Deputy Solicitor Arnold replied that is because of the State statute.

Alderman Thibault stated maybe we ought to check with the Assessors as to what kind of effect that would have. Let's say they raise that to \$40,000 or \$50,000...I mean the Assessor's know exactly the cost would be.

Alderman Cashin stated we should table this.

Alderman Thibault replied I agree. I think we ought to look at it a lot more carefully.

Alderman Cashin asked so what are we going to do with this.

Chairman Wihby answered we are going to table this.

On motion of Alderman Thibault, duly seconded by Alderman Cashin, it was voted to table this item.

### **TABLED ITEMS**

15. Communication from Rabbi Jacob Rosner requesting changes to the City Charter relative to dates of municipal primary elections.

Chairman Wihby asked are you still working on this.

Deputy Clerk Johnson answered we have no report. I think Leo is going to work with the Solicitor on this.

Chairman Wihby asked Deputy Solicitor Arnold if Leo has worked on this item with him yet.

Deputy Solicitor Arnold answered not to my knowledge but I can't speak for Tom Clark.

Deputy Clerk Johnson stated it couldn't be done for this election anyway.

Chairman Wihby asked well we are not going to keep it tabled for two years are we.

Deputy Clerk Johnson stated it is actually five years before the problem will arise again.

Chairman Wihby replied well I have breakfast with them so I would like to let them know where we are with that.

Deputy Clerk Johnson responded you can let them know that the City Clerk will be working with the City Solicitor.

16. Ordinance:

“An Ordinance amending Section 33.049 Special Merit Pay Increases by changing the requirements for how they shall be granted.”

On motion of Alderman Cashin, duly seconded by Alderman Thibault, it was voted to remove this item from the table.

Chairman Wihby stated so this came out of Personnel and then we tabled it. Why did we table it?

Deputy Clerk Johnson replied because nobody understood what it was that was changed.

Chairman Wihby asked so who is going to explain it to us.

Deputy Clerk Johnson replied I am not sure anybody is here to do that.

Chairman Wihby asked, Kevin, are you here to speak.

Mr. Dillon answered my only concern is somebody alleged that these raises that were granted were illegal and indicated that they would take them away.

Chairman Wihby asked take the money away that we already gave them. It doesn't matter if it was illegal or not. If we gave them the money we aren't going to take the money away.

Alderman Thibault asked is it just Airport people.

Mr. Dillon answered no.

Alderman Cashin asked somebody said it was illegal.

Mr. Dillon answered that was said in a conversation that occurred and I think it might even be in your Board information that you received.

Alderman Thibault asked didn't this go through Personnel.



Alderman Sysyn answered yes it was part of the Yarger Decker program.

Alderman Thibault asked is it part of the Yarger Decker merit increase.

Deputy Clerk Johnson answered yes and they want to make some changes. At the last meeting it was tabled because there were some questions regarding Alderman Lopez's letter and why he changed it.

Chairman Wihby stated it looks like it is the same. What did you change?

Deputy Solicitor Arnold replied as I remember it, it had something to do with being referred to the Mayor and I was just looking at the language again.

Chairman Wihby asked it must have included the HR Committee and it didn't go forward.

Deputy Clerk Johnson replied it had to do with the Mayor's review. I remember that.

Chairman Wihby stated it says, "recommendations for such increases shall be submitted by department heads with justification to the Human Resource Director, Mayor, and Human Resources and Insurance Committee."

Alderman Cashin replied if I understand it correctly, right now special merit increases are being approved by the department heads directly. Is that right, Kevin?

Mr. Dillon responded no. What happens today as I understand it is that a department head can recommend it and it has to be approved by the HR Director and the Mayor.

Deputy Solicitor Arnold stated what it says now is approval shall be made by the HR Director and the Mayor and/or the Human Resources and Insurance Committee and that is being changed to read that recommendations shall be submitted by department heads with justification to the Human Resources Director, the Mayor and the Human Resources/Insurance Committee but then goes on to say that no special merit increase shall be granted unless approved by the Human Resources/Insurance Committee.

Deputy Clerk Johnson stated the issue was that Alderman Lopez brought this to the Board saying that some of the special merit increases had been passed merely on the approval of the HR Director and had not gone to the Mayor and had not gone to the HR Committee. In order to make sure that it didn't happen again he

wanted to make sure that everything went through the HR Committee. So, he had proposed some language change and that was referred to the Solicitor and it was cleaned up a little.

Chairman Wihby asked where was it cleaned up.

Deputy Clerk Johnson answered if you look on the right hand of your page for Item 16 that has the memo on it, that is what the Solicitor submitted.

Chairman Wihby asked so this is what the Solicitor is saying we should do.

Deputy Clerk Johnson answered well he is saying that if you want to make the change, this is the verbiage and on the right hand side is the verbiage that Alderman Lopez wrote.

Chairman Wihby replied it looks the same.

Deputy Clerk Johnson responded it is not exactly the same. There was one word that was changed in there.

Alderman Cashin asked are we saying that some people got merit increases simply by going from the department head to the HR Director and it didn't follow the other steps.

Deputy Solicitor Arnold answered I don't know that.

Alderman Cashin asked well who does know it. Why is this here if nobody knows that?

Deputy Clerk Johnson answered my understanding is that the HR Director signed it and it didn't go to the Mayor and it didn't go to the HR Committee and the reason that was given for that was that they were not aware that there had been an ordinance change to what is current, which says the Mayor and HR Director. That is what was stated to the Committee and that is what started the whole thing. The law said one thing and they weren't following it. The Yarger Decker report, when it first came out, said the HR Director but when the Board adopted the ordinance they changed it.

Alderman Cashin asked so for any merit increases it was changed so that it had to go to the Mayor and the HR Committee.

Deputy Clerk Johnson answered yes but they are saying they never got a copy of that and didn't know that.

Alderman Cashin asked who.

Deputy Clerk Johnson answered it was stated at the HR Department when Alderman Lopez was checking on it.

Mr. Dillon stated I think there was also an issue where on some of the forms there was a verbal notification to the Mayor and the Mayor did not physically sign off on the forms and was having some difficulty in recollection as to whether or not they were actually approved. If you look at some of the forms you will see that Mark Hobson signed off and then it was as per the Mayor with no signature from the Mayor. I think part of that led to a lot of this concern on the part of Alderman Lopez who is now suggesting to make sure that everything is fully approved and go through the HR Committee instead of just being signed off certainly not only by the HR Director but I think the bone of contention here was should it stay with the HR Director and the Mayor or should the HR Committee be brought in to sign off on them. I think that is the only thing you are deciding here – whether or not you want to include the HR Committee in the approval of every special merit increase.

Chairman Wihby replied this says it has to be approved by them. Every single one has to be approved by them.

Mr. Dillon responded that is what they are asking for.

Chairman Wihby stated there is no difference between this and this.

Alderman Cashin stated but originally they had to be approved by them.

Deputy Clerk Johnson replied right by either the HR Committee and the HR Director or the Mayor and the HR Director, not by both. What is being proposed is that it has to go before the Committee and it has to go before the Mayor.

Alderman Thibault stated I think that is a good idea.

Deputy Clerk Johnson replied it is saying that no matter what the HR Committee has to approve them.

Alderman Cashin stated I understand all of that. My question is, is it possible that some people got a special merit increase without it being approved by the Mayor? If they did, then Alderman Lopez is right.

Chairman Wihby replied he might be right that it was illegal but he can't take the money away from them.

Alderman Cashin stated I am not saying they should take the money away.

Alderman Thibault replied we have to make sure that it doesn't happen again.

Deputy Clerk Johnson stated that was the point that was being made and that is why the action was requested.

Alderman Thibault asked what are we looking for for a motion here. That it does go to the Mayor and HR Committee?

Deputy Clerk Johnson answered they will all have to go before the HR Committee.

Alderman Cashin stated now it is going to get political and that is what we tried to avoid. We are going to have the HR Director, the Mayor and the HR Committee and you know what is going to happen there and we tried to avoid that.

Alderman Thibault asked so what do we do.

Chairman Wihby answered just keep it with the HR Director and the Mayor.

Deputy Clerk Johnson stated if you leave it the way it is and you don't want to change it you can recommend that perhaps it just be submitted to the HR Committee so that they are aware of what is was granted.

Alderman Thibault replied I want to make sure that in the future it is reported to the HR Committee and the Mayor.

Deputy Clerk Johnson responded it is reported to the HR Committee and the Mayor gets a copy.

Alderman Sysyn stated the HR Department is informed but not the HR Committee.

Alderman Thibault stated the Mayor should sign off on it.

Deputy Clerk Johnson replied the law says now that that is the way it has to happen but it didn't or there is a question as to whether or not it did.

Alderman Thibault responded so we just have to make sure that it is done.

Alderman Cashin stated all we need is a statement that the Board of Mayor and Aldermen will be notified in writing that the Mayor and HR Director have

approved a special merit increase. If you don't get the approval, you don't get the raise. Does that make sense?

Mr. Dillon replied I have no problem with that.

Deputy Clerk Johnson stated you don't need to change the law at all for what Alderman Cashin is saying. You just need a recommendation to the Board that...

Chairman Wihby interjected can't you just say that no special merit increase shall be granted unless the HR Committee is notified. The Mayor has to be one of the ones doing it. "Recommendations for such increases shall be submitted by department heads with justification to the Human Resources Director and the Mayor." "No special merit increase shall be granted unless notification to the Human Resources and Insurance Committee." Technically, the HR Director and Mayor have to sign-off but they have to let the Committee know. Mr. Dillon, did your department just get authorization by Mr. Hobson and not the Mayor? Are you one of the ones that started this?

Mr. Dillon stated my department had the issue of no proof that there was discussion with the Mayor or that he signed off on them.

Chairman Wihby asked which Mayor.

Mr. Dillon answered both.

Chairman Wihby asked in both instances it said per discussion with the Mayor but they didn't sign it. Did Alderman Lopez before he wrote this ask the Mayor if he saw them or you don't know?

Mr. Dillon answered I don't know.

Chairman Wihby asked Deputy Clerk Johnson if she understood what the Committee wanted.

Deputy Clerk Johnson answered the sentence that is knocked out that says "actions to approve such recommendations..." is going to be put back in.

Chairman Wihby stated I don't think we should have and/or Human Resources. It should just say the HR Director and the Mayor.

Deputy Solicitor Arnold stated I think what you want to do is in the last sentence say, "actions to approve such recommendations shall be made by the Human Resources Director and the Mayor and shall be reported to the full Board of Mayor and Aldermen."

Deputy Clerk Johnson stated the reason why they put and/or the Human Resources Committee initially because department heads had a concern that if they were recommending something and the Mayor had a problem with whatever that it gave them a different avenue to go in.

Chairman Wihby asked can't they take it there anyway.

Deputy Clerk Johnson replied not unless you leave that piece in there.

Alderman Cashin stated let it come to the full Board and they can decide.

Deputy Clerk Johnson stated so we are going to leave "actions to approve such recommendations shall be made by the Human Resources Director and the Mayor" and then say "and shall be reported to the Board of Mayor and Aldermen."

Deputy Solicitor Arnold replied yes because that way the HR Director and Mayor approve and a report is made to the full Board.

On motion of Alderman Cashin, duly seconded by Alderman Thibault, it was voted to amend the Ordinance as referenced above, and recommend that it ought to pass as amended.

17. Communications from Mike Pelletier regarding light pollution.

This item remained on the table.

There is no further business, on motion of Alderman Cashin, duly seconded by Alderman Thibault, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee